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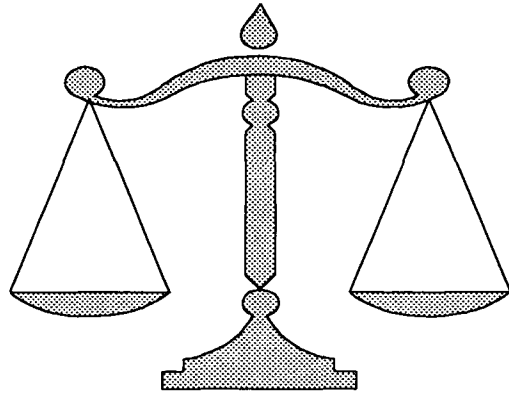
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COURTWATCH

by Marianne Mariano



National Organization For Women, etc., et. al. v. Joseph Scheidler

114 S. Ct. 798 (1994)

Health care clinics that perform abortions and other medical procedures brought suit against a coalition of antiabortion groups called the Pro-Life Action Network (PLAN), and other individuals and organizations that oppose legal abortion. The health care clinics claimed that the antiabortion groups engaged in a nationwide conspiracy to shut down abortion clinics through a pattern of racketeering activity. More specifically, the claim was that the antiabortion groups conspired to use threatened or actual force, violence, or fear to induce clinic employees, doctors, and patients to give up their jobs, their right to practice medicine, and their right to clinic services; that the conspiracy injured the clinics' business and property interests; and that PLAN is a racketeering enterprise, in violation of the Racketeer Influenced and Corrupt Organizations (RICO) chapter of the Organized Crime Control Act of 1970, 18 U.S.C. §§ 1961-1968 (1988). Section 1962(c) makes it unlawful "for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate . . . in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt."

The district court dismissed the health care clinics' claim, finding that they failed to state a claim under §1962 since the clinics did not allege a profit-generating purpose in the antiabortion groups' activities. The district court dismissed petitioners' RICO claims under §1962(a) because the "income" alleged by petitioners consisted of voluntary donations which in no way were derived from the pattern of racketeering discussed in the complaint. The court of appeals affirmed, finding that "non-economic crimes committed in furtherance of non-economic motives are not within the ambit of RICO."

The Supreme Court granted certiorari to determine whether antiabortion groups, in conspiring to shut down abortion clinics through a pattern of racketeering activity, violate RICO. Chief Justice

Rehnquist, writing for the majority, held that RICO does not require proof that either the racketeering enterprise or the predicate acts of racketeering need to be motivated by an economic purpose.

The Supreme Court found the scope of §1962 to be broader than that profit-seeking motive, because the statute includes enterprises whose activities "affect" interstate or foreign commerce, and an enterprise can surely have a detrimental influence on interstate or foreign commerce without having its own profit-seeking motives. The Court explained that such alleged extortion may not benefit the protesters financially, but it still may drain money from the economy by harming businesses such as the clinics.

The Court further explained that although Congress enacted RICO to combat organized crime, for cogent reasons Congress chose to enact a more general statute, which had organized crime as its focus, but was not limited in application to organized crime. The Court noted that the fact that RICO has been applied in situations not expressly anticipated by Congress does not demonstrate the statute's ambiguity, rather it demonstrates the statute's breadth.

The Court dismissed the argument that application of RICO to antiabortion protesters could chill legitimate expression protected by the First Amendment. Justice Souter and Justice Kennedy, in the concurring opinion, noted that legitimate free-speech claims may still be raised and addressed in individual RICO cases as they arise, and that nothing in the Court's opinion is intended to preclude a RICO defendant from raising a First Amendment defense. The Court went on to explain that to require an economic motive would be too protective with respect to First Amendment interests, since it would keep RICO from reaching ideological entities whose members commit acts of violence.

The outcome of this case is that clinics may sue antiabortion groups under RICO, since the Supreme Court has held that this statute is applicable to an enterprise that engages in racketeering activities, even if such acts are not motivated by an economic purpose. However, the Supreme Court never decided whether the respondents committed the requisite predicate acts under RICO, so the ultimate applicability of RICO to antiabortion racketeering is still uncertain. If the antiabortion groups are found to have engaged in the requisite racketeering activities required under RICO, then health care clinics may be awarded injunctive relief, along with treble damages, costs, and attorneys' fees, which is far greater relief than would otherwise be available.